

Santa Clara University

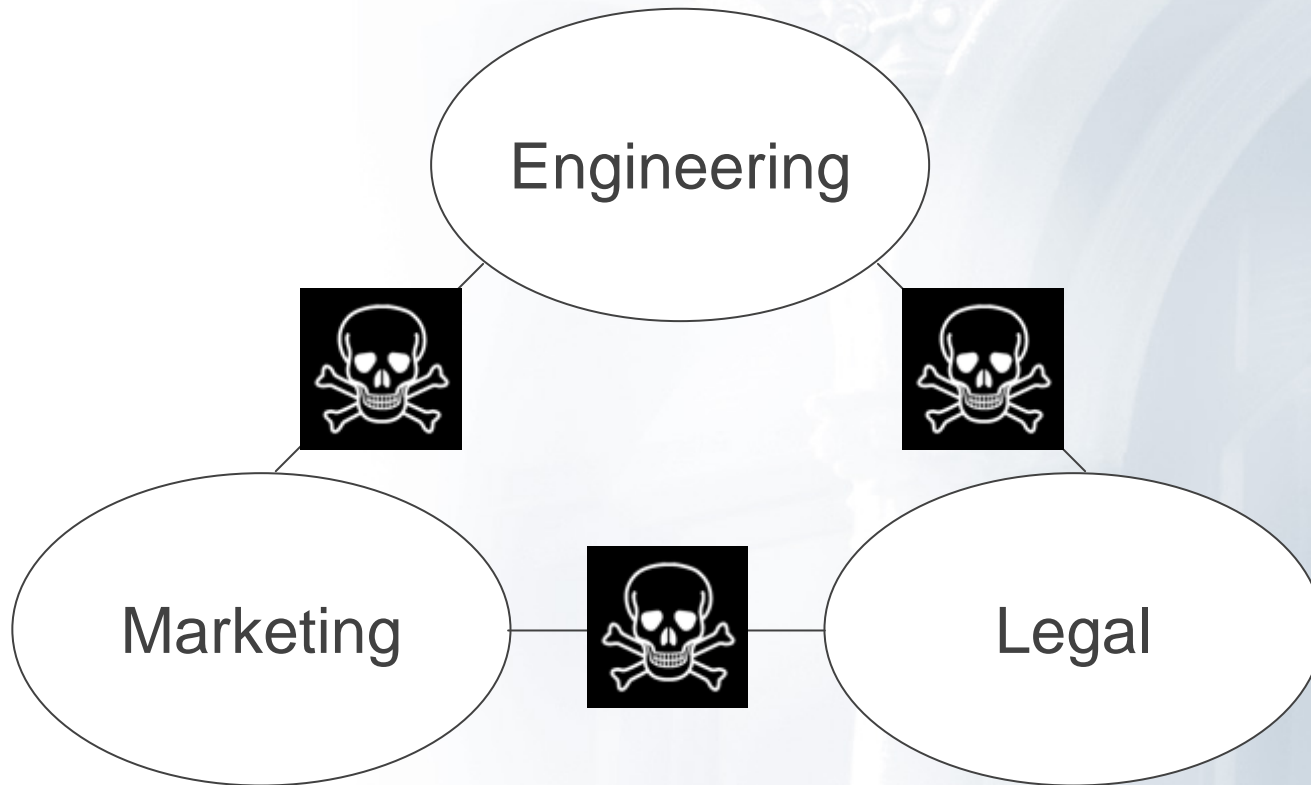
Engineers' Role in Internet Law Development

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The Bermuda Triangle



Hypothesis: engineers' individual decisions are the single biggest factor that determines a company's compliance with Internet law

Product Decisions With Legal Implications

- Contract promises
- Integrating software/content from Internet
- Metatags
- Geotargeting
 - Ex: LICRA v. Yahoo
- Scraper configuration
 - Ex: Google News' republication of United Airlines' bankruptcy
- Site activity tracking
 - Ex: Click fraud lawsuits and "doubleclicks"
 - Ex: CLRB Hanson v. Google

Roommates.com

[My Matches](#) | [Power Search](#) | [Mail Center](#) | [Support](#) | [Dating](#) | [Scam Alert](#) | [Logout](#)

Account Settings

- ▶ [Edit profile](#)
- ▶ [Edit email address](#)
- ▶ [Edit nickname](#)
- ▶ [Edit password](#)
- ▶ [MatchPlus](#)
- ▶ [Email notification](#)
- ▶ [Upgrade](#)
- ▶ [Deactivate](#)

View Profile

Enter nickname:

Go

ericgoldman: Needs a place to live

You have mail

About Me

Select details regarding yourself / your lifestyle.

Age: Gender: Sexual Orientation: Occupation: Smoking: Cleanliness:
 Pets: Dog(s) Cat(s) Caged Pet(s)
Children:

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View Profile

Enter nickname:

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You have mail

My Roommate Preferences

Select the criteria by which we should match your potential roommate.

Age range: - to - Adjust if you prefer a specific age group.Female: Male: Smoking: Cleanliness: Clean Average Messy Deselect if unacceptable.Pets: Dog(s) ok Cat(s) ok Caged Pet(s) okChildren: Change if you have a preference regarding children in the home.

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View Profile

Enter nickname:

ericgoldman: Needs a place to live [[Hidden](#)] [You have mail](#)

Search the database

Select Criteria

I'm seeking:

Straight female
 Lesbian
 Straight male
 Gay male
 [Select all that apply.](#)

Professional
 Student
 Unemployed
 Military

Non smoker
 Smoker
 Outside smoker
 Retired

Between ages: and [Adjust if you prefer a specific age group.](#)

Who:

Within:

[Modify to widen or narrow your search area.](#)

Of:

[If you're unsure of spelling, simply enter the first few letters of the city to be presented with a list of possibilities.](#)

Available: - -

[Date either the room is available or roommate is available to move.](#)

Payment:

[Monthly fee for room.](#)

Additional Preferences

Cleanliness: Average Clean Messy

Pets: No dogs No cats No caged pets

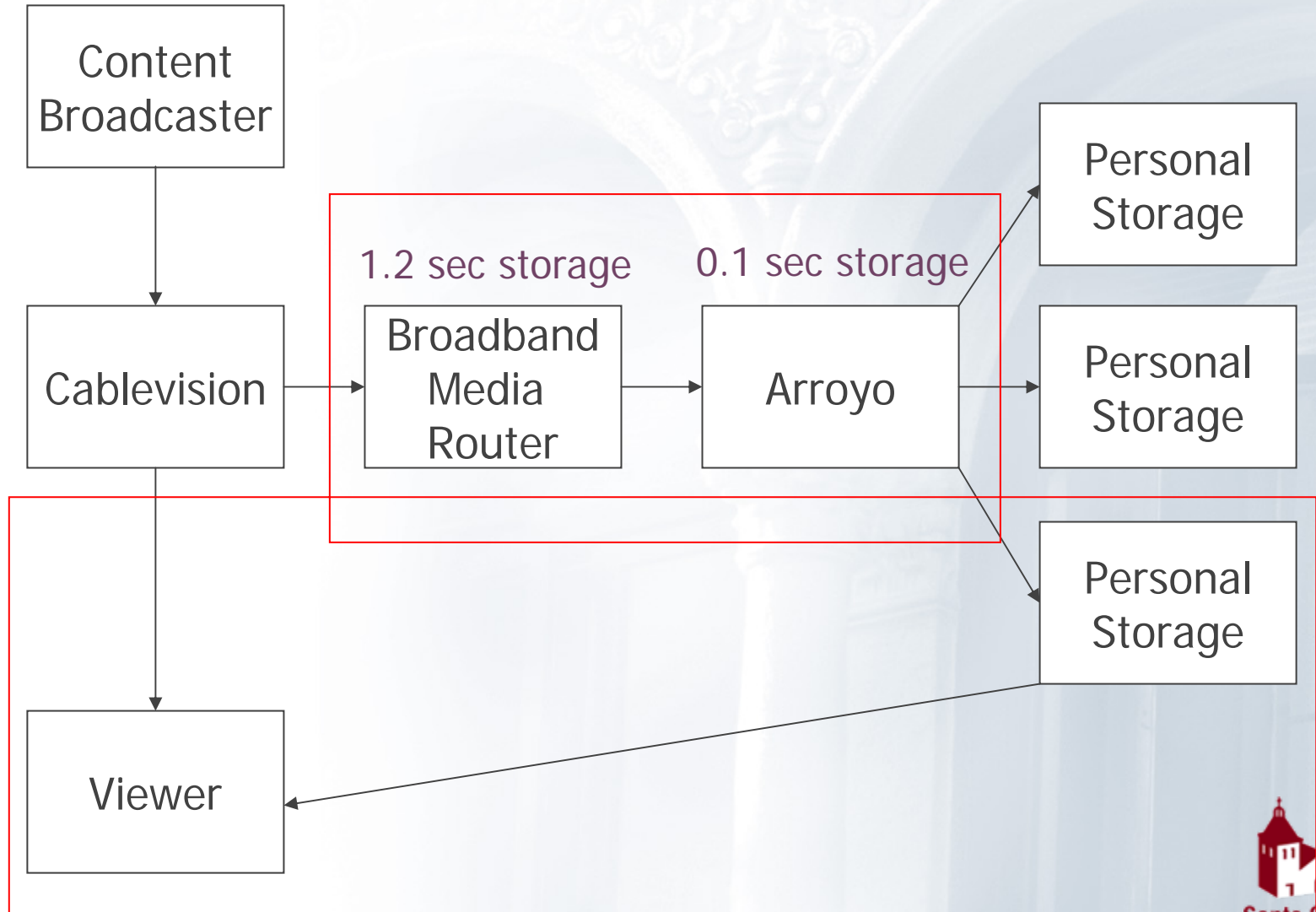
Children:

[Change if you have a preference regarding children in the home.](#)

Roommates.com (521 F.3d 1157, 9th Cir. 2008)

- Basic rule: websites aren't liable for third party content (47 USC 230)
- Roommates.com's position: we capture and republish users' structured content
- Court's position:
 - Website asked illegal questions
 - Website forced users to answer those questions
 - Website allowed users to search based on illegal criteria

Cablevision



Cablevision (536 F.3d 121, 2d Cir. 2008)

- Basic rule: data in computer RAM is “fixed”
 - Cablevision workaround: flush data really quickly so it is stored for only a “transitory duration”
- Basic rule: websites infringe by publishing content without permission
 - Cablevision workaround
 - We are just technology providers
 - Our users make the copies, not us
 - Thus, our copying lacks “volition”
- Basic rule: publishing content on website constitutes public display/performance
 - Cablevision workaround: each digital transmission can be decoded only by single device

What To Do Tomorrow

- Seek out training sessions from your counsel
- Include your lawyer in your pipeline discussions
 - At initial design stage
 - AND at QA stage (with adequate time)
- Befriend your lawyer